

PATENT APPLN. NO. 09/963,463
SUPPLEMENTAL RESPONSE UNDER 37 C.F.R. § 1.116

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REMARKS

In the response filed May 17, 2004, to the Office Action dated February 17, 2004, claim 1 was amended to limit the lithium-manganese composite oxide to LiMn_2O_4 . As explained in the response, this amendment was made in light of a telephone interview with the Examiner, Ms. Tracy Mae Dove, on May 13, 2004. During the interview Ms. Dove explained that she did not believe that the data of Tables 6-8 were sufficient to rebut her case of *prima facie* obviousness because the data are not commensurate in scope with the claims. Ms. Dove explained, as one of the reasons for her position, that the invention cells and comparative cells (of Tables 6-8) were prepared using only LiMn_2O_4 . She indicated that the claims would not be allowed unless the claims were amended to limit the lithium-manganese composite oxide to LiMn_2O_4 .

After further consideration, applicants believe that the data of Table 10 of the application show unobviousness of the nonaqueous electrolyte secondary cell of the present invention for the full scope of the lithium-manganese composite oxide as originally recited in claim 1. Therefore, claim 1 has been amended to restore the original definition of the lithium-manganese composite oxide.

More specifically, the data of Table 10 show that cells of the present invention (Invention cells 4, 19, 20 and 21) in which the

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positive electrode active material is a mixture of $\text{LiNi}_{0.4}\text{Co}_{0.3}\text{Mn}_{0.3}\text{O}_2$ and a lithium-manganese composite oxide of the formula $\text{Li}_{(1+z)}\text{Mn}_z\text{O}_4$, where z is 0, 0.05, 0.1 and 0.2, respectively, have superior output power density and input power density to a comparative cell in which the positive electrode active material is a mixture of $\text{LiNi}_{0.4}\text{Co}_{0.3}\text{Mn}_{0.3}\text{O}_2$ and a lithium-manganese composite oxide of the formula $\text{Li}_{(1+z)}\text{Mn}_z\text{O}_4$, where z is 0.21.

The data of Table 10, when considered together with the data of Tables 6-8 and that of the other tables, are believed to support the patentability of the full scope of the lithium-manganese composite oxide recited in the claims.

The present response and the response filed May 17, 2004, are believed to constitute a complete and proper response to the Office Action dated February 17, 2004, and to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

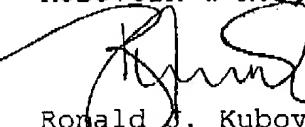
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In the event any additional fees are required, please also
charge our Deposit Account No. 111833.

Respectfully submitted,

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